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**BEFORE THE
BUREAU OF REAL ESTATE APPRAISERS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**LEE R. THOMAS
4974 N. Fresno Street, #292
Fresno, California 93726**

Real Estate Appraiser License No. 017014

Respondent.

Case No. C20131021-02

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 13, 2014, Complainant Elizabeth Seaters, in her official capacity as the Chief of Enforcement of the Bureau of Real Estate Appraisers, filed Accusation No. C20131021-02 against Lee R. Thomas (Respondent) before the Bureau of Real Estate Appraisers. (Accusation attached as Exhibit A.)

2. On or about March 4, 1993, the Office of Real Estate Appraisers¹ (Bureau) issued Real Estate Appraiser License No. 017014 to Respondent. The Real Estate Appraiser License

¹ The Office of Real Estate Appraisers is now the Bureau of Real Estate Appraisers.

1 was in full force and effect at all times relevant to the charges brought in Accusation No.
2 C20131021-02 and will expire on August 18, 2015, unless renewed.

3 3. On or about May 14, 2014, Respondent was served by Certified and First Class Mail
4 copies of Accusation No. C20131021-02, Statement to Respondent, Notice of Defense, Request
5 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
6 11507.7) at Respondent's address of record which, pursuant to Title 10, California Code of
7 Regulations, section 3527, is required to be reported and maintained with the agency.

8 Respondent's address of record was and is:

9 4974 N. Fresno Street, #292
10 Fresno, California 93726.

11 4. Service of the Accusation was effective as a matter of law under the provisions of
12 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
13 124.

14 5. On or about May 19, 2014, Respondent returned a signed Certified Mail receipt for
15 the aforementioned documents. However, Respondent never returned a Notice of Defense.

16 6. Government Code section 11506 states, in pertinent part:

17 (c) The respondent shall be entitled to a hearing on the merits if the respondent
18 files a notice of defense, and the notice shall be deemed a specific denial of all parts
19 of the accusation not expressly admitted. Failure to file a notice of defense shall
20 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
21 may nevertheless grant a hearing.

22 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
23 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
24 C20131021-02.

25 8. California Government Code section 11520 states, in pertinent part:

26 (a) If the respondent either fails to file a notice of defense or to appear at the
27 hearing, the agency may take action based upon the respondent's express admissions
28 or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

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1 Respondent also failed to respond to voicemails that were left for him by Bureau staff on
2 December 23, 2013, and March 4, 2014, requesting contact from Respondent and noting that no
3 response to the November 20, 2013, and January 27, 2014 demand letters was received.

4 ORDER

5 IT IS SO ORDERED that Real Estate Appraiser License No. 017014, heretofore issued to
6 Respondent Lee R. Thomas, is revoked.

7 Respondent shall pay the Bureau its costs of investigation and enforcement in the amount of
8 \$1,294.41 prior to issuance of a new or reinstated license.

9 Respondent shall pay the Bureau an administrative fine in the amount of \$5,000.00 prior to
10 issuance of a new or reinstated license.

11 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
12 written motion requesting that the Decision be vacated and stating the grounds relied on within
13 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
14 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

15 This Decision shall become effective on 7-16-14.

16 It is so ORDERED 6-16-14

17
18 **Original Signed**

19 FOR THE BUREAU OF REAL ESTATE APPRAISERS
20 DEPARTMENT OF CONSUMER AFFAIRS

21 SA2014115879

22 Attachment:
23 Exhibit A: Accusation

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Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 PHILLIP L. ARTHUR
Deputy Attorney General
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7 E-mail: Phillip.Arthur@doj.ca.gov
Attorneys for Complainant

8
9 **BEFORE THE**
BUREAU OF REAL ESTATE APPRAISERS
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11
12 In the Matter of the Accusation Against:
13 **LEE R. THOMAS**
4974 N. Fresno Street, #292
14 Fresno, California 93726
15 Real Estate Appraiser License No. 017014
16 Respondent.

Case No. C20131021-02

ACCUSATION

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19 Complainant alleges:

20 **PARTIES**

21 1. Elizabeth Seaters, acting on behalf of the Bureau of Real Estate Appraisers
22 (Complainant), Department of Consumer Affairs, brings this Accusation solely in her official
23 capacity as Chief of Enforcement for Complainant.

24 2. On or about March 4, 1993, the Office of Real Estate Appraisers¹ (Bureau) issued
25 Real Estate Appraiser License Number 017014 to Lee R. Thomas (Respondent). The Real Estate
26

27
28 ¹ The Office of Real Estate Appraisers is now the Bureau of Real Estate Appraisers.

1 Appraiser License was in full force and effect at all times relevant to the charges brought herein
2 and will expire on August 18, 2015, unless renewed.

3 JURISDICTION

4 3. This Accusation is brought before the Bureau for the Department of Consumer
5 Affairs, under the authority of the following laws. All section references are to the Business and
6 Professions Code unless otherwise indicated.

7 4. Business and Professions Code section 11313 states:

8 "The bureau is under the supervision and control of the Director of Consumer Affairs. The
9 duty of enforcing and administering this part is vested in the chief, and he or she is responsible to
10 the Director of Consumer Affairs therefor. The chief shall adopt and enforce rules and
11 regulations as are determined reasonably necessary to carry out the purposes of this part. Those
12 rules and regulations shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340)
13 of Part 1 of Division 3 of Title 2 of the Government Code. Regulations adopted by the former
14 Director of the Office of Real Estate Appraisers shall continue to apply to the bureau and its
15 licensees."

16 5. Business and Professions Code section 11314 states, in pertinent part, "The office
17 is required to include in its regulations requirements for licensure and discipline of real estate
18 appraisers that ensure protection of the public interest."

19 6. Business and Professions Code section 11315.3 states:

20 The suspension, expiration, or forfeiture by operation of law of a license or certificate of
21 registration issued by the office, or its suspension, forfeiture, or cancellation by order of the office
22 or by order of a court of law, or its surrender without the written consent of the office, shall not,
23 during any period in which it may be renewed, restored, reissued, or reinstated, deprive the office
24 of its authority to institute or continue a disciplinary proceeding against the licensee or registrant
25 upon any ground provided by law or to enter an order suspending or revoking the license or
26 certificate of registration, or otherwise taking disciplinary action against the licensee or registrant
27 on any such ground."

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STATUTORY PROVISIONS

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2 7. Business and Professions Code section 11316, subdivision (a) states:

3 "(a) The director may assess a fine against a licensee, applicant for licensure, person who
4 acts in a capacity that requires a license under this part, course provider, applicant for course
5 provider accreditation, or a person who, or entity that, acts in a capacity that requires course
6 provider accreditation for violation of this part or any regulations adopted to carry out its
7 purposes."

8 8. Business and Professions Code section 11328 states, in pertinent part:

9 "To substantiate documentation of appraisal experience, or to facilitate the investigation of
10 illegal or unethical activities by a licensee, applicant, or other person acting in a capacity that
11 requires a license, that licensee, applicant, or person shall, upon the request of the director, submit
12 copies of appraisals, or any work product which is addressed by the Uniform Standards of
13 Professional Appraisal Practice, and all supporting documentation and data to the OREA."

REGULATION

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15 9. California Code of Regulations, title 10, section 3721 states, in pertinent part:

16 "(a) The Director may issue a citation, order of abatement, assess a fine or private or public
17 reproof, suspend or revoke any license or Certificate of Registration, and/or may deny the
18 issuance or renewal of a license or Certificate of Registration of any person or entity acting in a
19 capacity requiring a license or Certificate of Registration who has:

20 "...

21 "(7) Violated any provision of the Real Estate Appraisers' Licensing and Certification Law,
22 Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code, or
23 regulations promulgated pursuant thereto; or any provision of the Business and Professions Code
24 applicable to applicants for or holders of licenses authorizing appraisals. . . ."

COST RECOVERY

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26 10. Business and Professions Code section 11409, subdivision (a) states:

27 "Except as otherwise provided by law, any order issued in resolution of a disciplinary
28 proceeding may direct a licensee, applicant for licensure, person who acts in a capacity that

1 requires a license under this part, registrant, applicant for a certificate of registration, course
2 provider, applicant for course provider accreditation, or a person who, or entity that, acts in a
3 capacity that requires course provider accreditation found to have committed a violation or
4 violations of statutes or regulations relating to real estate appraiser practice to pay a sum not to
5 exceed the reasonable costs of investigation, enforcement, and prosecution of the case."

6 CAUSE FOR DISCIPLINE

7 (Failure to Submit Appraisal Copies and/or Other Work Product on Demand)

8 11. Respondent is subject to disciplinary action under section 11328 of the Code, by and
9 through California Code of Regulations, title 10, section 3721(a)(7), in that Respondent failed to
10 submit appraisal copies and/or other work product on demand. The facts and circumstances are as
11 follows:

12 a. On or about August 28, 2013, a complaint was filed with the Bureau against
13 Respondent, alleging bias and negligence by Respondent for an appraisal Respondent performed
14 on a property in Fresno with an effective date of January 23, 2013 (Fresno Property Appraisal).
15 Respondent failed to respond to demand letters that were sent to him by the Bureau (requesting
16 submittal of Respondent's appraisal and workfile copies for the Fresno Property Appraisal) on
17 November 20, 2013, and January 27, 2014. On January 31, 2014, the Bureau received a Certified
18 Mail Dispatch confirming that Respondent received the January 27, 2014 demand letter.
19 Respondent also failed to respond to voicemails that were left for him by Bureau staff on
20 December 23, 2013, and March 4, 2014, requesting contact from Respondent and noting that no
21 response to the November 20, 2013, and January 27, 2014 demand letters was received.

22 DISCIPLINE CONSIDERATIONS

23 12. To determine the degree of discipline, if any, to be imposed on Respondent,
24 Complainant alleges that a prior complaint (061107-02) and investigation (2006-2008) resulted in
25 a citation with a fine of \$500.00 and fifteen hours of basic education for the following conduct:
26 (a) Respondent failed to disclose and analyze the subject property's traffic influence;
27 (b) Respondent failed to utilize comparable sales that were similar in size or that had similar
28 traffic influence in the Sales Comparison Approach, Respondent also failed to adjust

1 appropriately the comparable sales utilized for the subject property's traffic influence, resulting in
2 an overvaluation; (c) Respondent failed to disclose and analyze the subject property's listing and
3 marketing history, days on market, sales or financing concession, and any price reductions;
4 (d) Respondent failed to discuss and analyze two prior sales of the subject property which
5 occurred within three years of the effective date of the appraisal report, Respondent also failed to
6 discuss and support the subject property's approximate 53% increase in value within a four and
7 half month period; (e) based on the findings noted in above items (a), (b), (c), and (d), Respondent
8 failed to correctly employ those recognized methods and techniques necessary to produce a
9 credible appraisal report; (f) based on the findings noted in above items (a), (b), (c), and (d),
10 Respondent committed substantial errors of omission or commission affecting the appraisal;
11 (g) based on the findings noted in above items (a), (b), (c), and (d), Respondent failed to clearly
12 and accurately set forth the appraisal in a manner that would not be misleading; and (h) based on
13 the findings noted in above items (a), (b), (c), and (d), Respondent failed to provide sufficient
14 information to enable the intended users of the report to understand it properly. The fifteen hours
15 of basic education was due on October 1, 2009, however Respondent did not complete it until
16 July 5, 2011. And the \$500.00 fine was due on February 15, 2008, however it was not paid until
17 June 30, 2009.

18 PRAYER

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the Chief of the Bureau of Real Estate Appraisers issue a decision:

21 1. Revoking or suspending Real Estate Appraiser License Number 017014, issued to Lee
22 R. Thomas;

23 2. Ordering Lee R. Thomas to pay the Bureau of Real Estate Appraisers the reasonable
24 costs of the investigation and enforcement of this case, pursuant to Business and Professions Code
25 section 11409;

26 3. Ordering Lee R. Thomas to pay the Bureau of Real Estate Appraisers a fine pursuant
27 to Business and Professions Code section 11316; and

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4. Taking such other and further action as deemed necessary and proper.

DATED: 5/13/14

Original Signed

ELIZABETH SEATERS
Chief of Enforcement
Bureau of Real Estate Appraisers
Department of Consumer Affairs
State of California
Complainant

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